

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

THOMAS R. DANIEL, II,

Plaintiff,

v.

FEDERAL GOVERNMENT U.S.
ARMED FORCES,

Defendant.

Case No. C12-1261-JLR-JPD

REPORT AND RECOMMENDATION

The plaintiff, proceeding *pro se*, has filed an application to proceed *in forma pauperis* (“IFP”) in this proposed civil rights lawsuit. Dkt. 1. After careful consideration of the plaintiff’s IFP application, proposed complaint, the governing law and the balance of the record, the Court recommends that the case be DISMISSED without prejudice and that the IFP application be DENIED as moot.

Pursuant to 28 U.S.C. § 1915(e)(2)(B), this Court may deny an application to proceed IFP and should dismiss a complaint if it is frivolous or fails to state a claim upon which relief can be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(i)-(ii); *O’Loughlin v. Doe*, 920 F.2d 614, 616 (9th Cir. 1990). An action is frivolous if “it lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). The fact that the plaintiff is not a prisoner does

1 not change this analysis. *See Lopez v. Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000) (“[S]ection
2 1915(e) applies to all in forma pauperis complaints, not just those filed by prisoners.”).

3 Here, plaintiff’s proposed complaint appears frivolous and fails to state a claim upon
4 which relief can be granted. *See* Dkt. 1, Att. 1. Specifically, the plaintiff states that he recently
5 remembered that the military “injected a microchip” in his brain in the 1980s. *Id.* at 2. The
6 plaintiff claims, *inter alia*, that he is “a black operations military experiment,” and that there is
7 a “life long conspiracy” against him, the participants of which include several doctors. *Id.* The
8 plaintiff seeks a federal order to be issued to the conspiring doctors requiring that one of them
9 “comes clean about the microchip.” *Id.* Finally, the plaintiff has failed to name a proper
10 defendant amenable to suit. Because this action is frivolous and fails to state a claim upon
11 which relief can be granted, it is subject to dismissal under 28 U.S.C. § 1915(e)(2)(B) and
12 Federal Rule of Civil Procedure 12(b)(6).

13 Accordingly, the Court recommends that this case be DISMISSED without prejudice
14 and that the IFP application, Dkt. 1, be DENIED as moot. *See* 28 U.S.C. § 1915(e)(2)(B). A
15 proposed order accompanies this Report and Recommendation.

16 DATED this 7th day of August, 2012.

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18 JAMES P. DONOHUE
19 United States Magistrate Judge
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